



Oklahoma's claims violate the Commerce Clause and Arkansas' sovereignty and that the Clean Water Act has displaced any federal common law that could support Oklahoma's claims.

For the convenience of the Court, the Tyson Defendants attach their proposed *Amended Motion to Dismiss Counts 4-10 of the First Amended Complaint and Integrated Opening Brief in Support*. In the amended motion, the Tyson Defendants have deleted the withdrawn Clean Water Act argument, leaving the latter arguments substantively unchanged. To provide background information for the federal common law nuisance argument, the Tyson Defendants have included a discussion of Clean Water Act principles that retains some material from the Original Motion to Dismiss. They have not, however, added any substantive arguments to the amended motion. Accordingly, the amended motion contains no new material requiring further briefing by the parties. Pursuant to Local Rule 7.2(k), the Tyson Defendants have asked Plaintiffs' counsel whether they consent to this motion, but as of January 22 have not received a definitive response.

For the foregoing reasons, the Tyson Defendants respectfully request that the motion be granted and that the clerk be directed to strike the Original Motion to Dismiss (Docket No. 66) and to file the amended motion, attached hereto. Pursuant to Local Rule 7.2(k), a proposed order is attached as Exhibit B.

Dated: January 22, 2007

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of January 2007, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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